



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,692	10/20/2006	Dieter Kraft	10191/4309	4955
26646 7590 07/08/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER YACOB, SISAY				
ART UNIT 2612		PAPER NUMBER		
MAIL DATE 07/08/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,692

Applicant(s)

KRAFT, DIETER

Examiner

SISAY YACOB

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13, 16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response To Amendment

1. This communication is in response to applicant's amendment to a non-Final Office action, which was filed March 02, 2009.
2. Amendments and arguments to pending rejected claims 11-13, 16 and 18-20 have been entered and made of record in the application of Kraft for "Method and device for controlling a radiation source" filed on October 20, 2006.

Claims 11, 13, 16, 18 and 19 are amended.

Claims 12 and 20 are as previously presented.

Claims 11-13, 16 and 18-20 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 11 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Publication of Bechtel et al. (20020043612 A1).**

As to claim 11, Bechtel et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract; Par. 0041) comprising: monitoring by at least one sensor (Item 34) at least part of the illumination range for a presence of at least one object (Par. 0039-0040);

Art Unit: 2612

generating by the at least one sensor a sensor signal as a function of the at least one object present (Par. 0040); and automatically performing at least one of the following as a function of the sensor signal: switching off the at least one radiation source (Par. 0038-0041), and regulating a radiation intensity of the radiation source (Par. 0038-0041) if a distance to the at least one object is less than a predetermined limiting value (distance of typically 50 to 200 meters away for headlamps of oncoming vehicles and tail lights of rearwardly approached vehicles when most headlamp controller actions meets the claimed limitation; Par. 0057), as a function of an approach of the vehicle to the at least one object (distance of typically 50 to 200 meters away for headlamps of oncoming vehicles and tail lights of rearwardly approached vehicles when most headlamp controller actions are initiated; Par. 0057), wherein the approach is determined from the sensor signal (image sensor 34 meets the claimed limitation; Par. 0057).

As to claim 19, Bechtel et al. discloses a device for controlling a radiation source of a vehicle illuminating an illumination range (Abstract; Item 20 of a vehicle; Par. 0024) comprising: at least one sensor (Item 34) configured so that the at least one sensor monitors at least part of the illumination range of the radiation source for a presence of at least one object (Par. Par. 0039-0040), the at least one sensor generating a sensor signal as a function of the at least one object present (Par. 0040), and at least one processing unit (Item 36) that is configured to perform at least one of the following as a function of the sensor signal (Par. 0038-0041), switching off the radiation source if a distance to the at least one object is less than a predetermined limiting value (distance of typically

Art Unit: 2612

50 to 200 meters away for headlamps of oncoming vehicles and tail lights of rearwardly approached vehicles when most headlamp controller actions meets the claimed limitation; Par. 0057), and regulating a radiation intensity of the radiation source as a function of an approach of the vehicle to the at least one object (distance of typically 50 to 200 meters away for headlamps of oncoming vehicles and tail lights of rearwardly approached vehicles when most headlamp controller actions are initiated; Par. 0057), wherein the approach is determined from the sensor signal (image sensor 34 meets the claimed limitation; Par. 0057).

Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 2612

7. Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Publication of Holz et al. (20020181240 A1).

As to claim 12 (depends on 11), Bechtel et al. does not expressly disclose the radiation source includes a headlight emitting light at least in a near infrared wavelength range.

Holz et al. discloses a radiation source for improved vision for a vehicle (Abstract) that includes a headlight emitting light at least in a near infrared wavelength range (Page 2, Par. 0030).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the headlight emitting light at least in a near infrared wavelength range, as disclosed by Holz et al., in order to have a method for controlling at least one radiation source an illumination range, wherein the radiation source includes a headlight emitting light at least in a near infrared wavelength range, because Holz et al. suggests it would improve the vision for a vehicle operator, specially, at night and during inclement weather condition, which is a desirable feature to have in order to enhance safety.

As to claim 20 (depends on 19), Bechtel et al. does not expressly disclose the device is used in a night vision system of a motor vehicle.

Holz et al. discloses a device for illuminating radiation source for improved vision in a vehicle (Abstract) that includes a device that is used in a night vision system of a motor vehicle (Page 2, Par. 0026).

Art Unit: 2612

It would have been obvious to one skilled in art at the time the invention was made to modify the device for controlling at least one radiation source of Bechtel et al., by incorporating the device for night vision, as disclosed by Holz et al., in order to have a device for controlling a radiation source illuminating an illumination range, because both prior arts are directed to solving the same problem and Holz et al. discloses the claimed limitations.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Patent to Stam et al. (6,611,610 B1) and further in view of U.S. Patent to Lemelson et al. (6,226,389 B1).

As to claim 13 (depends on 11), Bechtel et al. does not expressly disclose at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, at least one LIDAR sensor, and at least one video sensor.

Stam et al. discloses a method for controlling at least one radiation source (Abstract) that includes at least one sensor includes at least one of: at least one ultrasound sensor (Col. 45, line 58 – Col. 46, line 14), at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz (Col. 45, line 58 – Col. 46, line 14).

It would have been obvious to one skilled in art at the time the invention was made to modify a method for controlling at least one radiation source of Bechtel et al., by incorporating the ultrasound and radar sensors, as disclosed by Stam et al., in order to have a method for controlling at least one radiation source

Art Unit: 2612

an illumination range, wherein the at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, because both prior arts are directed to solving the same problem and Stam et al. discloses a sensor that includes at least one ultrasound sensor and at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz.

The combination of Bechtel et al. and Stam et al. does not expressly disclose at least one LIDAR sensor, and at least one video sensor.

Lemelson et al. discloses a method for warning and controlling at least one radiation source (Abstract; Col. 5, lines 20-64) that includes at least one sensor of LIDAR sensor (Col. 5, line 65 – Col. 6, line 12), and at least one video sensor (Col. 5, line 65 – Col. 6, line 12).

It would have been obvious to one skilled in art at the time the invention was made to modify the combination of Bechtel et al. and Stam et al., by incorporating the LIDAR and video sensors, as disclosed by Lemelson et al., in order to have a method for controlling at least one radiation source that includes at least one sensor includes at least one of: at least one ultrasound sensor, at least one radar sensor operating in a wavelength range of at least one of 24 GHz and 77 GHz, at least one LIDAR sensor, and at least one video sensor, because all the prior arts both prior arts are directed to solving the same problem and Lemelson et al. discloses the claimed limitations. Furthermore, it would be a designer's choice as to what type of conventional sensor/s to employ.

Art Unit: 2612

11 Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. in view of U.S. Patent to Bos et al. (6,396,397 B1).

As to claim 16 (depends on 11), Bechtel et al. does not expressly disclose the radiation intensity is approximately proportional to the approach to the at least one object.

Bos et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract), wherein a radiation intensity is approximately proportional the approach to the at least one object (Col. 1, lines 48-65).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the radiation intensity setting, as disclosed by Bos et al., so as to provide an illumination range that is adjusted to be proportional to approach vehicles to ensure the other driver would not be affected by the intensity of the light as they get close to or approach the vehicle, because both prior arts are directed to solving the same problem, one skilled in the art would have been aware of the disclosures and Bos et al. discloses the claimed limitation.

As to claim 18 (depends on 11), Bechtel et al. does not expressly disclose a warning for the at least one object present, the warning corresponding to at least one of an acoustic warning signal and a visual warning signal.

Bos et al. discloses a method for controlling at least one radiation source illuminating an illumination range (Abstract), wherein a warning signal being issued by the controller for the at least one object present (Abstract; Col. 4, lines 44-64).

It would have been obvious to one skilled in art at the time the invention was made to modify the method for controlling at least one radiation source of Bechtel et al., by incorporating the warning signal, as disclosed by Bos et al., so as to provide a warning signal to for approaching object, specially for pedestrians, to warn the pedestrian the oncoming/ approaching vehicle, which the pedestrian may have not paid attention to, because both prior arts are directed to solving the same problem, one skilled in the art would have been aware of the disclosures and Bos et al. discloses the claimed limitation.

Response to Arguments

9. Applicant's arguments, see (Pages 7-10), filed (March 02, 2009), with respect to the rejection(s) of claim(s) 11 and 19 under 35 U.S.C. 102(b) and claim(s) 12-13, 16 18 and 20 under 35 U.S.C. 103(a).

Examiner respectfully disagree with applicant's assertion regarding the method and device for controlling a radiation source of Bechtel's disclosure failing to disclose automatically performing at least one of switching off a radiation source or regulating a radiation intensity of the radiation source as a function of the sensor signal, as it is cited in the applicant's argument on page 8. Bechtel discloses automatically performing at least one of switching off a

Art Unit: 2612

radiation source or regulating a radiation intensity of the radiation source as a function of the sensor signal (Par. 0038-0041 as indicated in the rejection).

Bechtel expressly discloses **"Control operations may include automatically turning on and off headlamp 22 and automatically switching between the high beam and low beam for headlamp 22."** in paragraph 0038 and further Bechtel expressly discloses **"Focused rays 32 from optical system 30 strike image sensor 34 in the focal plane of optical system 30. Processing and control system 36 receives image sensor output 38 and produces image sensor control 40. Processing and control system 36 also generate automatic headlamp control signal 42 which is received by headlamp controller 44."** in paragraph 0039. The control is not a manual as implied by applicant arguments. Therefore, the cited paragraphs of Bechtel disclose the limitations of the instant application and meet the claimed limitations as presented.

Applicant's amendment changed the scope of the claimed limitation by adding "automatically" into independent claims 11 and "following as a function of the sensor signal", "if a distance to the at least one object is less than a predetermined limiting value", "function of an approach of the vehicle to the at least one object, wherein the approach is determined from the sensor signal." into independent claim 19, attempting to overcome the prior art rejection, which requires further search and consideration. Upon further search and consideration examiner noted that the prior arts of record that were cited in the previous Office Action disclose the limitations of the instant application as claimed and

Art Unit: 2612

amended, and therefore arguments stated by applicant are moot in view of the new ground of rejection, which are necessitated by applicant's amendments.

See above rejection for full detail.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Correspondence

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SISAY YACOB whose telephone number is

Art Unit: 2612

(571)272-8562. The examiner can normally be reached on Monday through Friday 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin C. Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sisay Yacob

07/04/2009

/S. Y./

Examiner, Art Unit 2612

/Benjamin C. Lee/

Supervisory Patent Examiner, Art Unit 2612

